THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 14935 of 2007

O r d e r:

The petitioner passed SSC and possesses certificate in I.T.I. Fitter Trade. He claims that he has been working as contract labour for more than 11 years with the respondents. In response to the notification dated 06.06.2006 issued by the respondents for recruitment to the posts of Contract Junior Linemen, the petitioner submitted his application. Thereafter, contending that as per Condition No. 6(I)(b) of the revised notification, he being a casual contract labour with the respondents is entitled to be given preference, along with other similarly placed persons, filed writ petition in W.P. No. 24550 of 2006, and this Court by order dated 27.11.2006, disposed of the same with a direction to the respondents to strictly adhere to Condition No. 6(I)(b) of the revised notification. In pursuance of the said direction, the respondents considered the case of the petitioner, and by reason of the orders dated 11.04.2007, impugned in this writ petition, rejected his case on the ground that he does not possess the requisite qualifications.

The learned counsel for the petitioner submits that the petitioner passed SSC and possesses certificate in I.T.I. Fitter Trade, and even though he does not possess the certificate in I.T.I. in Electrical/Wiremen Trade, as required by the notification, but since the petitioner has been working with the respondents for more than 11 years as contract labour and had gained sufficient experience, having regard to the judgment of the apex Court in **Bhagwati Prasad v. Delhi State Mineral Development Corporation**[1], he is entitled to be given preference in the matter of recruitment, and the action of the respondents in rejecting his case on the ground that he does not possess the requisite qualification, is illegal and arbitrary. Hence, he prayed that the impugned order be set aside and the respondents be directed to appoint him as Contract Junior Lineman.

On the other hand, the learned Standing Counsel for the respondents-APSPDCL submitted that as per the notification, the candidate should possess SSC with I.T.I. certificate in

Electrical/Wireman Trade, and inasmuch as the petitioner does not possess I.T.I. certificate in Electrical/Wireman Trade, but possesses I.T.I. certificate in Fitter Trade, which is not the qualification prescribed in the notification, the respondents rejected the case of the petitioner stating that he does not possess the requisite qualification, and as such, his case cannot be considered, and no interference is called for therewith. Hence, he prayed for dismissal of the writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSPDCL.

As per Condition No. 6(I)(i) of the revised notification, the qualifications prescribed for appointment as Contract Junior Lineman are that the candidates should have passed SSC/SSLC/10th Class with I.T.I. certificate in Electrical/Wireman Trade or Intermediate Vocational Course in Electrical Trade. Admittedly, the petitioner does not possess I.T.I. certificate in the required Electrical/Wireman Trade, but possesses I.T.I. certificate in Fitter Trade. It is the case of the respondents that unless and until candidates satisfy the qualifications prescribed in Condition No. 6(I)(i) of the revised notification, they are not entitled for consideration of their cases in terms of Condition No. 6(I)(b) of the revised notification. Inasmuch as, in the instant case, the petitioner did not possess the requisite qualification i.e. I.T.I. certificate in Electrical/Wireman Trade, as required by Condition No. 6(I)(i) of the revised notification, but possessed certificate in I.T.I. Fitter Trade, which is different from the one prescribed by the respondents, the question of directing the respondents to consider his case as per Condition No. 6(I)(b) of the revised notification, does not arise.

May be the petitioner had worked with the respondents for more than 12 years and had gained sufficient experience, but that by itself is no ground for this Court to direct the respondents to appoint a person, who does not possess the qualifications as prescribed in the notification, and more so when this Court in W.P. No. 8257 of 1998 and batch, dated 02.01.2007, held that when the Board Service Regulations prescribe a particular qualification, the candidates seeking selection, should pass such qualification, and this court in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot relax the prescribed qualification. In that view of the matter, no exception can be taken to the action of the respondents in not considering the case of the petitioner for appointment as Contract

Junior Lineman as per Condition No. 6(i)(b) of the revised notification.

There is no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Dated: November, 2007.
KSR

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[1] AIR 1990 SC 371